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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC  
701 FIFTH AVE  
SUITE 5400  
SEATTLE WA 98104

**OFFICE OF PETITIONS**

In re Application	:
Joelle Thonnard	:
Application No. 10/048,574	: DECISION ON APPLICATION
Filed: January 23, 2002	: FOR PATENT TERM ADJUSTMENT
Patent No. 7,632,516	:
Issued: December 15, 2009	:

This is a decision on the petition under 37 CFR 1.705(d), filed May 19, 2010. Patentee requests that the patent term adjustment under 35 U.S.C. 154(b) be corrected from one thousand eleven (1011) days to six hundred eighty-seven (687) days.

The application for patent term adjustment is GRANTED to the extent indicated herein.

The above patent issued on December 15, 2009 with a patent term adjustment of six hundred one (601) days. Patentees timely filed a petition under 37 CFR 1.705(d) on February 9, 2010, asserting that the patent term adjustment should be six hundred eighty-seven (687) days. The Office mailed a decision on April 21, 2010, stating that the patent term adjustment was one thousand, eleven (1011) days. The Office determined a patent term adjustment of 1011 days based on an adjustment for PTO delay of 621 days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 CFR § 1.703(a)(1), 5 days pursuant to 37 CFR 1.703(a)(2), and 651 days pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR § 1.703(b), reduced by 29, 90, and 93 days of applicant delay under 37 CFR 1.704(b), and 49 days of applicant delay under 37 CFR 1.704(c)(8).

However, Patentee point out that she should have been assessed Applicant delay due to the abandonment of the application. The application became abandoned on September 7, 2002, for applicant's failure to file a proper reply to a Notification of Defective Response mailed August 6, 2002, which set a one month period for reply. Applicant filed a grantable petition to revive under 37 CFR 1.137(b) on May 24, 2004, which was granted in a decision mailed by the Office within four months on September 16, 2004. Accordingly, Applicant delay under 37 CFR 1.704(c)(3), is 741 days, not 324 days as asserted by Applicant (Applicant incorrectly stated that the application became abandoned on October 29, 2003, the date the Office mailed the Notice of Abandonment).

In addition, a review of the file reveals that Applicant should have been assessed additional delay pursuant to 37 CFR 1.704(c)(10). The Office mailed a Notice of Allowance on March 12, 2008. In reply, Applicant filed an RCE on June 12, 2008, to which the Office responded by mailing a non-final Office action on September 19, 2008. Accordingly, pursuant to 37 CFR 1.704(c)(10), Applicant delay of one hundred (100) days should have been assessed.

In view thereof, the correct determination of patent term adjustment is **one hundred seventy (170) days** (1272 days of PTO delay, reduced by 1002 (29+90+49+93+741+100) days of Applicant delay).

Receipt of the \$200 fee for filing the instant application for patent term adjustment is acknowledged.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **one hundred seventy (170) days** subject to any disclaimers.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.



Anthony Knight  
Director  
Office of Petitions

Enc: draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE  
**DRAFT CERTIFICATE OF CORRECTION**

PATENT : 7,632,516 B2

DATED : December 15, 2009

INVENTOR(S) : Thonnard

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 1011 days.

Delete the phrase "by 1011 days" and insert – by 170 days--